

# **Equal Employment Opportunity**

## **Informational Handbook**

**U.S. Army Corps of Engineers  
Pacific Ocean Division**

**May 1998**

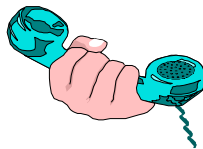
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## 1. Introduction.

a. The objective of Equal Employment Opportunity (EEO) is to ensure that equal opportunity in employment is provided to all employees and applicants for government jobs. EEO prohibits discrimination in employment based on race, color, religion, sex, national origin, age (40+), physical or mental handicap, or reprisal for prior EEO involvement.

b. This pamphlet provides information and guidance about the U.S. Army Corps of Engineers, Pacific Ocean Division's (POD) EEO program. If there are any questions regarding this information, please contact the EEO Office (808-438-2797) for assistance.



## 2. Responsibilities.

a. **Division Commander.** Ultimately is responsible for the POD EEO Program, including appointment of all EEO officials, execution of policy, allocation of program resources, and the taking of affirmative action to eliminate discrimination.

b. **Equal Employment Manager (EEM).** Is the principal advisor and program manager for EEO and reports directly to the Division Commander. The EEM develops policies, practices and guidelines that affect minorities and women, and sets objectives that support overall higher-level objectives and ensures consistency in achievement of EEO goals throughout the Division.

c. **EEO Program Staff.** Develops local Division and District EEO policy and procedures, including policy statements and affirmative action program plans. Identifies EEO problem areas, including noncompliance with EEO regulations and policies, and recommends corrective actions to the Commander. Manages and processes discrimination complaints. Monitors and reports on the status of various ethnic groups within the work force, including ongoing review of personnel actions, to ensure equality of opportunity. Provides training, consultation and information pertaining to the EEO Program. Maintains liaison with local community groups and educational institutions to promote the Federal government's EEO programs.

d. **EEO Counselor.** Advises employees and management officials of their rights, conducts inquiries into allegations of discrimination, and proposes resolution to resolve discrimination complaints at the informal stage.

e. **Special Emphasis Program Committee (SEPC).** Is comprised of employees and/or managers who volunteer up to 20% of their primary duty time (EEO collateral duty) to assist EEO officials in carrying out the EEO Program activities. The SEPC provides information about the concerns and needs of women and minorities in their respective organizations and provides support in the preparation and implementation of affirmative action programs, to include assessment of the workforce and identifying of barriers that impede affirmative action. Committee members also serve as the sounding board for employees' concerns. The SEPC plans and schedules events recognizing and commemorating the achievements and contributions of women and minority groups.

f. **Managers and Supervisors.** Support and execute the EEO Program. Adhere to and implement EEO policy and principles in every action that deals with or affects personnel management. Establish and maintain a work environment that is free of discrimination, sexual harassment and reprisal. Ensure that employees are trained and kept aware of the EEO Program. Participate with the EEM in the removal of employment barriers. Continue to place emphasis in meeting the hiring goals established for the employment of minorities and women as identified in the EEO Affirmative Action Program Plan.

g. **Chief, Civilian Personnel Advisory Center (CPAC).** Plans and implements actions that fully support the Command's EEO Program. Provides special support and assistance to the EEM in such related program areas as recruiting, training, employee counseling, employee utilization, and provision of personnel data and statistics. Keeps management and the EEM informed on personnel program changes, situations, or problems which have a bearing on the EEO Program and for which EEO-oriented action should be taken. Designates a member of the CPAC staff to serve as the EEO Action Officer. The EEO Action Officer serves as coordinator for EEO counselors during the processing of informal complaints, and assists the EEM in coordinating civilian personnel office activities relating to the EEO Program.

h. **Legal Advisor or Labor Counselor.** Is an attorney who advises and represents the Commander in labor matters, including EEO complaints. The legal advisor/labor counselor acts as the Command/Army legal representative in fact-finding conferences, EEO Commission (EEOC) hearings, and court proceedings. The EEM coordinates the entire administrative process of complaints processing with the attorney.

### **3. POD EEO Program.**

a. **Special Emphasis Program (SEP).** Special Emphasis Programs within the DA EEO Program are designed to address the particular problems and needs of groups which have traditionally suffered from a disproportionate degree of discrimination and underrepresentation in employment. There are four active SEPs within POD (Federal Women, Black, Hispanic, Handicapped/Disabled Veteran); and each program is managed by the SEP Manager. The SEP Manager monitors the status of each group, identifies problem areas and makes recommendations for corrective actions. In addition, the SEP Manager provides assistance to group members within the workforce and the community in all employment areas. The following provides a brief description of each SEP:

(1) Federal Women's Program (FWP). Identifies problem areas impeding the selection and advancement of women as well as ways and means to overcoming these barriers.

(2) Hispanic Employment and Black Employment Programs. Hispanics and Blacks are considered to be severely underrepresented groups in the Federal workforce, therefore, EEO Program emphasis in the employment of Hispanics and Blacks is required.

(3) Handicapped/Disabled Veteran (H/DV) Program. All Federal agencies are required to ensure that qualified handicapped individuals, including disabled veterans and Federal employees who become disabled after appointment, have a full range of opportunities to be hired, placed and trained in Federal jobs which they are capable of performing with reasonable accommodation. Regulations required the development of Affirmative Action Program (AAP) Plans for the Handicapped to assist managers in the recruitment of handicapped individuals and disabled veterans. Specified disabilities targeted for emphasis in AAP planning are blindness, deafness, missing extremities, partial/complete paralysis, convulsive disorders, mentally restored, mental retardation, and distortion of limbs and/or spine. The H/DV Program also includes addressing attitudes, facilities, transportation and other areas affecting employment opportunities for handicapped individuals and disabled veterans.

b. **Upward Mobility Program (UMP).** The UMP is a systemic management approach to develop high potential employees who are in lower graded positions that do not enable them to realize their full potential. Through UMP, employees in grades GS-9 and below and wage grade equivalents have an opportunity to enter a new career in a technical, administrative, professional, or craft/trade occupation. Employees are selected under merit procedures based on potential rather than formal qualifications. Each selectee is provided intensive, accelerated development under a formal training agreement, so that he/she may acquire the skills and specific knowledge necessary to perform successfully in a target position.

c. **Affirmative Action Program (AAP).** Federal laws and regulations require that the Command take action to overcome the effects of past and present discriminatory practices, policies or other barriers which impede equal employment opportunity.

d. **Prevention of Sexual Harassment (POSH) Program.** Is an ongoing program within POD and throughout the Department of the Army to prevent sexual harassment in the work environment. Sexual harassment is defined as:

(1) Unwelcome sexual advances.

(2) Request for sexual favors and other verbal or physical conduct of a sexual nature which is made a term or condition of a person's job, is used as a basis for employment decisions affecting that individual, creates a hostile or abusive work environment, or interferes with the performance of the employee.

If any employee feels that he/she has been subjected to some form of sexual harassment, they should contact the EEO Office for further assistance.

#### **4. Complaint System.**

a. Complaints will be processed in accordance with Directives in 29 CFR 1614 and AR 690-600. Federal employees or applicants for employment may file an EEO complaint of discrimination if:

(1) The applicant, employee or former employee feels that he/she has been or is being treated differently or unfairly because of race, color, religion, sex, age (40+), national origin, or physical or mental handicap. Discrimination may arise from a specific personnel action or from an ongoing personnel policy or practice, or;

(2) An applicant or employee feels that he/she has been or is being subjected to *reprisal* because of having filed or having been associated with a complaint of discrimination (regardless of how long in the past). The employee may file a separate complaint of discrimination based on reprisal.

b. Typical issues of discrimination that arise as complaints follow:

- Failure to be promoted (hired)
- Failure to be considered for promotion
- Training
- Disciplinary action
- Duty assignment
- Failure to receive recognition (awards)
- Performance appraisal
- Job classification
- Harassment or maltreatment.

c. If the complaint is not related to discrimination, sexual harassment or discriminatory reprisal, the complainant should address the issue to the Management Employee Relations Division, CPAC, and/or to the Union (if the employee is covered under the Negotiated Agreement) for appropriate action.

d. As part of his/her discrimination complaint, the complainant may request relief as appropriate to the nature of the alleged discrimination. Some typical forms of relief if discrimination is found include:

- Retroactive promotion/back pay
- Special consideration for promotion
- Assignment to training
- Removal of disciplinary action
- Reassignment (transfer) of complainant and/or alleged discriminating official
- Discipline of alleged discriminating official
- Consideration for recognition
- Reconsideration of performance appraisal
- Reclassification of position
- Cessation of harassment/maltreatment

#### **5. Corps of Engineers Early Resolution Program (CEERP).**

a. CEERP is an alternate dispute resolution process that requires that the EEM consider conciliation efforts prior to initiation of informal EEO counseling. Upon receiving a request for counseling, the Counselor will explain the requirement for consideration of conciliation and request the Aggrieved Individual (AI) contact the EEO Office immediately. The Counselor must immediately inform the EEO Office of the contact and of his/her availability to provide counseling, should it be determined that conciliation is not appropriate for the issue(s) involved, or if participation is declined or does not result in resolution. The EEM will determine if the alleged complaint will be processed through the CEERP or through the traditional Department of the Army complaints process.

b. The EEO Counselor will complete the initial interview and brief the EEM within 10 calendar days following completion of the initial interview with the AI.

c. The Counselor will complete the informal inquiry, attempt resolution of the matter and brief the EEO Officer on his/her inquiry within 22 calendar days from the date of the initial interview.

d. The Counselor will submit the Final Counseling Report to the EEO Officer within 24 calendar days from the date of the initial interview with the AI.





## **6. Informal Complaint Process. If the CEERP process not utilized.**

a. To file an informal complaint of discrimination, the complainant must contact an EEO Counselor of his/her choice within 45 calendar days of the matter giving rise of the complaint. (See Bulletin Boards for names, phone numbers and locations of EEO Counselors.) If the matter is not a specific action but an ongoing policy or practice, it must have been in effect within 45 calendar days of contact with the Counselor. Contact the EEO Office for additional information.

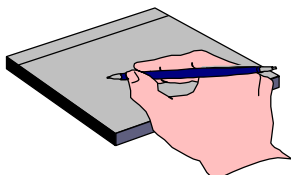
b. A complainant need not furnish "proof" of discrimination in order to file a complaint. It is sufficient for the complainant to demonstrate that he/she has been adversely affected and to believe that this adverse effect is due to discrimination.

c. Contact with an EEO Counselor will initiate a 30-calendar day period during which the Counselor will attempt to reach an informal resolution of the complaint. The CEERP process will be followed and a determination made on whether the complaint will be processed through mediation. If the complainant desires, his/her name will be kept confidential during the informal stage. (All efforts will be made by the Counselor to ensure anonymity of complainant.) The Counselor will interview the complainant to determine the nature and background of the complaint and the relief desired. The complainant will be asked to complete, sign and date a form detailing this information. As applicable, the Counselor may research regulations, review personnel records and statistical data, interview witnesses and management officials, and/or speak with those officials that are considered to be the Principal Agency Witness (PAW). The Counselor will present findings and recommendations to both parties and determine whether a mutually acceptable informal resolution of the complaint is possible. If so, terms of the resolution will be recorded in writing and furnished to the complainant and the PAW(s). If the complainant does not accepted a proposed resolution during the informal stage, mediation of the complaint may be initiated prior to the processing of a formal complaint.

d. Complainants and PAW(s) are entitled to present evidence, name witnesses and have representatives of their choice during all stages of the complaint process. Command staff officials cannot serve as a representative for either party, nor will the Command furnish legal counsel to either party. However, complainants are entitled to recovery of reasonable legal fees if they prevail in a formal complaint.

## **7. Formal Complaint Process.**

a. If no informal resolution is achieved within 30 calendar days, the EEO Counselor must, on the 30th day, give written notice to the complainant of the right to file a formal complaint. In order to exercise this right, the complainant must file a written formal complaint within 15 calendar days of the date of Notice of Right to File Letter with the Counselor.



b. A formal complaint must be dated and signed by the complainant and preferably should be submitted on DA Form 2590-R, available from the EEO Office. A formal complaint must be submitted, either in person or by mail, to one of the following:

Equal Employment Opportunity Officer  
U.S. Army Engineer Division, Pacific Ocean  
ATTN: CEPOD-EO  
Bldg 230  
Fort Shafter, Hawaii 96858-5440

Division Commander  
U.S. Army Engineer Division, Pacific Ocean  
ATTN: CEPOD-DE  
Bldg 230  
Fort Shafter, Hawaii 96858-5440

Federal Women's Program Manager  
U.S. Army Engineer Division, Pacific Ocean  
ATTN: CEPOD-EO  
Bldg 230  
Fort Shafter, Hawaii 96858-5440

Director of Equal Employment Opportunity  
Department of the Army  
ATTN: SAMR-SFECR  
1941 Jefferson Davis Highway, Room 221  
Arlington, VA 22202-4508

Secretary of the Army  
ATTN: SAMR-SFECR  
1941 Jefferson Davis Highway, Room 221  
Arlington, VA 22202-4508

## **8. Class Action Complaint Process.**

a. A "class" is a group of agency employees, former employees and/or applicants for employment on whose behalf it is alleged that they have been or may be adversely affected by agency personnel management policy or practice which the agency has authority to rescind or modify, and which discriminates against the group on the basis of their common race, color, religion, sex, national origin, age, or physical or mental handicap.

b. An employee or applicant who wishes to be an agent for the class and who believes he/she has been discriminated against, must contact an EEO Counselor within

90 calendar days of the matter giving rise to the allegation of individual discrimination, or within 90 calendar days of its effective date, if a personnel action.

c. All class action complaints should be brought to the attention of the POD EEM. Counseling will be assigned to a Class Action Complaint Counselor.

d. The Counselor has 30 calendar days to attempt informal resolution of the matter. The Counselor will conduct a final interview and terminate counseling within the 30-day period. At the time of the final interview, the aggrieved person will be advised of his/her representative and signed by the agent.

e. The formal complaint must be filed not later than 15 calendar days after the date of Notice of Final Interview with the Counselor. The complaint must be delivered in person or submitted by mail to one of the following:

Equal Employment Opportunity Officer  
U.S. Army Engineer Division, Pacific Ocean  
ATTN: CEPOD-EO  
Bldg 230  
Fort Shafter, Hawaii 96858-5440

Director of Equal Employment Opportunity  
Department of the Army  
ATTN: SAMR-SFECR  
1941 Jefferson Davis Highway, Room 221  
Arlington, VA 22202-4508

Secretary of the Army  
ATTN: SAMR-SFECR  
1941 Jefferson Davis Highway, Room 221  
Arlington, VA 22202-4508

## **9. Frequently Asked Questions.**

a. *Q: Does the EEO complaint system favor management?*

A: The EEO complaint system is designed to favor neither management nor complainants, but rather to make it possible for the facts to be established and equitable solutions reached if discrimination exists. Beyond its legal obligation to implement EEO laws and regulations, the Command has a vested interest in maintaining high morale and productivity, both of which are adversely affected by discrimination. The various levels of appeal in the system work to ensure against possible abuse by management.

b. Q: *What can I do if my supervisor decides to make things difficult for me because I've filed a complaint?*

A: EEO regulations prohibit reprisal against employees who have filed or have been associated with EEO complaints, regardless of how long in the past the complaint was filed. The employee may file a (new) complaint of discrimination based on reprisal, or appeal directly to the Commander for an investigation.

c. Q: *Is the EEO complaint system basically for minorities?*

A: EEO laws and regulations prohibit discrimination based on race, color, religion, sex, national origin, age, physical handicap, and mental handicap. This means that "non-minorities" have the same rights as "minorities" in the complaint system and are equally protected against discrimination.

d. Q: *What is to prevent an employee from using the complaint system to "get even" with a supervisor, or to try to gain an undeserved employment benefit?*

A: A charge of discrimination will have no effect on the status of an alleged discriminating official or a complainant unless and until a finding of discrimination is made through the complaints process. In order for a finding to be made, a preponderance of the evidence must show that discrimination in fact took place. In addition to this test, the various levels of review in the system work to ensure against possible abuse by complainants.

e. Q: *What should I do if I feel that I am being sexually harassed?*

A: Immediately consult a member of the EEO staff who will ensure that you are counseled regarding your options for dealing with the problem and seeking relief.

f. Q: *Can an applicant for employment or temporary employee file a complaint alleging discrimination?*

A: Yes, the system allows all applicants and temporary employees to file a complaint as long as they perceive that they have been discriminated against.